

*Applicant: Phillips et al.
Application Serial No. 09/735,363
Amendment and Response to Non-Final Office Action
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REMARKS

The above-identified patent application is directed to a composition, comprising a 2 to 20 base 3'-OH, 5'-OH synthetic phosphodiester nucleotide sequence. Prior to this amendment, Claims 1-5, 7-8, 10, and 46-58 were pending. By this amendment, applicants amend Claim 1, cancel Claims 2-4, 7-8, and 46-58 and enter new Claims 59-68. The amendments do not introduce any new matter. Support for the amendments and new claims is found in the previously pending claims. Upon entry of the amendment, Claims 1, 5, 10, and 59-68 will be pending.

Telephone Interview

Applicants thank the Examiner for the courtesy of a telephone interview on September 3, 2004.

Allowable Subject Matter

The Examiner identified SEQ ID NOs:8-10, 25, 26, 41-43, 45, and 46 as free of the prior art. As discussed below, applicants amended Claim 1 to recite SEQ ID NOs:8-10, 25, 26, 41-43, 45, and 46.

Claim Rejections under 35 U.S.C. §112, First Paragraph

The Examiner maintained the rejection of Claims 1-5, 7, 8, 10 and 46-58 under 35 U.S.C. §112, first paragraph, for reasons of inadequate written description. The Examiner asserts that Claim 1 is directed to a very broad genus of oligonucleotides and is not supported by over eighty sequences provided in the present application.

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Applicants have amended Claim 1 to recite phosphodiester nucleotide sequences selected from the group consisting of SEQ ID NOs:8-10, 25, 26, 41-43, 45, and 46, that were identified as allowable subject matter by the Examiner in the Office Action of December 18, 2003. Applicants respectfully assert that the amendment overcomes the rejection of Claim 1 and its dependent Claims 5 and 10.

New Claims 59-68 depend from Claim 1 and recite SEQ ID NOs that were identified as allowable subject matter by the Examiner in the Office Action of December 18, 2003. Therefore, applicants respectfully assert that new Claims 59-68 are allowable.

Applicants cancelled Claims 2-4, 7-8, and 46-58, thereby rendering their rejection moot.

In view of the foregoing, applicants respectfully request withdrawal of the rejection of Claims 1-5, 7, 8, and 46-58 under 35 U.S.C. §112, first paragraph, and request that Claims 1, 5, 10, and 59-68 be allowed.

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CONCLUSION

The foregoing is submitted as a full and complete response to the Office Action mailed December 18, 2003.

Applicants assert that the claims are in condition for allowance and respectfully request that the application be passed to issuance. If the Examiner believes that any informalities remain in the case that may be corrected by Examiner's amendment, or that there are any other issues which can be resolved by a telephone interview, a telephone call to the undersigned agent at (404) 815-6102 or to Dr. John McDonald at (404) 745-2470 is respectfully solicited.

No additional fees are believed due, however, the Commissioner is hereby authorized to charge any deficiencies which may be required or credit any overpayment to Deposit Account Number 11-0855.

Respectfully submitted,



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